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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,839	03/31/2000	Ariel Berkovits	2207/6856	9593

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EXAMINER
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ART UNIT	PAPER NUMBER
2187	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| *Advisory Action*
Before the Filing of an Appeal Brief | Application No.
09/539,839 | Applicant(s)
BERKOVITS, ARIEL | |
| | Examiner
Brian R. Peugh | Art Unit
2187 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>15 March 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) a set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appea has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

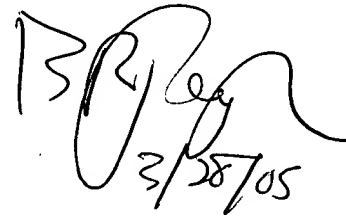   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: The Examiner objected to the Drawings regarding the claim limitation that "...an imprtance level of the line after the valid data is accessed while maintaining the line as valid" should have been shown in the claims. Regarding Applicant's Arguments of March 15, 2005, the Applicant has argued on page 8, paragraph three that "The memory access of the column before column 37 is for valid data for memory location b. Such is implicit from the drawing figure since no allocation is shown in this column". The Examiner disagrees, in that not only does Applicant's Drawing fail to indicate a valid indicator such as a flag or bit, Applicant's Specification is also silent on the use of indicating that cache lines are valid, before or after the cache line is accessed. Thus, it would have been improper of the Examiner to assume that the data is valid in light of Applicant's Specification and Drawings. In regards to the Examiner's 35 U.S.C. 112, 1st paragraph rejection, the Applicant has attempted to explain the benefit of using the RICL instruction over the prior art in order to describe the claimed subject matter attributed to the 35 U.S.C. 112, 1st paragraph rejection. The Examiner is unclear as to the explanation, which appears on page 9, paragraph 2 of the response filed March 15, 2005. Applicant has indicated that "As seen in Fig. 3, without the RICL instruction, data from memory location c stored in cache line 2 would have been replaced with data from memory location e. In the column immediately after column 38, the access wo data from memory location a would result in a "cache miss" and the resulting delays associated with it." The Examiner believe that if the RICL command is withdrawn, in accordance with Applicant's explanation, from Figure 3, data from memory location a stored in cache line 0 would have been replaced with data from memory location e. The Examiner is unclear as to Applicant's assertion regarding the replacement of cache line 2 with data from location e. Thus, Applicant's arguements have been considered by the Examiner but have been deemed confusing and not persuasive in light of the statements made above. Furthermore, Applicant had indicated on page 2 of the response to "Please amend the claims as follows:", although there does not appear to be any intentional amendments made by the Applicant. Applicant should note that in line 4 of claim 30, an underscore appears to have been mistakenly entered between the words "valid" and "data". .